IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. 7566-M of 2007

Date of Decision : 16.04.2007

Santokh Singh @ Sukhi and another.

…. Petitioners

Versus

State of Punjab

…. Respondent

CORAM : HON'BLE MR. JUSTICE S.D. ANAND

Present : Mr. D.S. Rajput, Advocate,
for the petitioners.

S.D. Anand, J.

FIR No. 56, dated 01.04.1999, under Sections 353/186/506/427/148/149 was registered at Police Station Sadar, Jalandhar, against petitioners Santokh Singh and Kulwinder Singh and some others. The petitioners absented from the proceedings and were declared proclaimed offenders; while the co-accused were tried and acquitted vide judgment dated 05.04.1997. On return from overseas, the petitioners filed an application to the Senior Superintendent of Police, Jalandhar (Annexure P/3) for investigation into the matter. The Deputy Superintendent of Police, Rural-II, Jalandhar, recorded a finding of innocence against them, vide report dated 31.03.2005 (Annexure P/5). Thereafter, the petitioners filed an application under Section 70(2) of the Criminal Procedure Code (23 of 2005) before the learned Trial Magistrate for recall of the order

declaring them proclaimed offenders and for recording a finding of acquittal against them on the basis of the report made by the Deputy Superintendent of Police on re-investigation. That was dismissed by the learned Trial Magistrate vide order dated 06.10.2006 (Annexure P-6). The petitioners have presently filed this petition for quashment of FIR No. 56 dated 01.04.1999 on the basis of verdict of acquittal against their co-accused. In support of the plea, learned counsel has placed unstinted reliance upon a judgment rendered by a Single Judge of this Court and reported as 1995(2) R.C.R. (Criminal) 127 (Gurpreet Singh alias Khinder Versus State of Punjab).

The reliance placed upon the judicial pronouncement aforementioned is misconceived. Each case is based upon different facts and circumstances and the cause of action adopted by the petitioners is not in order inasmuch as he could not have obtained a finding of acquittal by resort to an application under Section 70(2) of the Code of Criminal Procedure particularly when a challan against the petitioners had already been filed in the Court and they absented during the trial only.

The plea on behalf of the petitioners deserves to be negatived. As noticed in order dated 06.10.2005 (Annexure P/6), the petitioners had been appearing before the Trial Court before they decided to abstain from the proceedings. It was thereafter that they were declared proclaimed offenders vide order dated 08.10.1990. Thus, the learned Trial Magistrate rightly declined to recall the order vide which they were declared proclaimed offenders.

The present petition, in the form of quashment cause, is not maintainable. If the petitioners have a valid grievance, they may give vent to before the learned Trial Magistrate. There is no material before this Court to indicate that any parallel between the role of the acquitted accused and the petitioners is drawable.

In the light of foregoing discussion, this petition is held to be devoid of merit and is ordered to be dismissed.

April 16, 2007 ( S.D. Anand )
vkd Judge